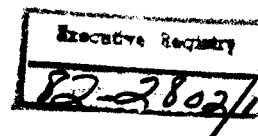


The Director of Central Intelligence

Washington, D.C. 20505



17 June 1982

Honorable David A. Stockman
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Stockman:

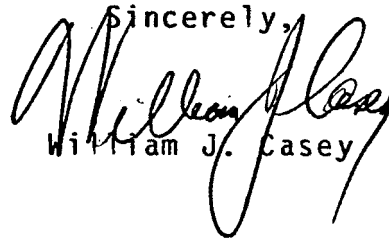
This is in response to your request for the views of the Director of Central Intelligence on Enrolled Bill H.R. 4, the "Intelligence Identities Protection Act". During the past few months the President has repeatedly expressed his support for this legislation in the form in which it is now enrolled, and the Intelligence Community has worked diligently to help achieve passage of the Bill. I urge, therefore, that the President sign the legislation into law.

The Intelligence Identities Protection Act criminalizes unauthorized disclosures of information identifying certain individuals engaged or assisting in our nation's intelligence activities. It does so in a manner which carefully balances the need for protecting these individuals with the First Amendment rights of citizens and the press. There are six stringent elements of proof which must be established beyond a reasonable doubt for there to be a successful prosecution under subsection 601(c) of the Act, which applies to disclosures by persons who have not had authorized access to classified information. In addition, the "reason to believe" standard applicable in connection with a defendant's state of mind as to the consequences of his actions is an objective standard, which will avoid intrusive investigations into individual motivations, while effectively ending the pernicious unauthorized disclosures of identities which have already cost one life and jeopardized many others. This legislation, carefully crafted and debated at length, was passed overwhelmingly by both the House and Senate, demonstrating firm congressional belief in its necessity and constitutionality.

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I am enclosing a brief signing statement for the President's use upon approving H.R. 4. The statement points to the enactment of this legislation as yet another achievement by the President in his effort to rebuild our nation's intelligence capabilities. The statement also refers to the Administration's goal of achieving relief for the Intelligence Community from the Freedom of Information Act.

Sincerely,



William J. Casey

Enclosure

Recommended Signing Statement

On December 4th of last year I had the pleasure of signing the Intelligence Authorization Act for Fiscal Year 1982. At that time I expressed the hope that I would soon be able to sign the Intelligence Identities Protection Act, which I said would be another step forward in revitalizing our intelligence efforts. It is with the deepest sense of pride, therefore, that today I sign into law Enrolled Bill H.R. 4.

The formulation of sound foreign policy and the security of our nation depend to a great extent upon the timely acquisition of information concerning the capabilities and intentions of other countries. There have been great technological advances in intelligence collection techniques, but in the crucial area of intentions the human source and the human collector remain paramount, and they can never be replaced by machines. Protection must be afforded to the dedicated men and women who serve our nation in difficult and dangerous intelligence assignments. I know that every patriotic American feels the same revulsion that I do for those who have made it their business to expose the names of individuals engaged or assisting in our intelligence activities. I am gratified that the Congress has provided the necessary means to put an end to this perverse conduct, and that it has done so in a manner which protects First Amendment rights.

I am well aware of the serious attention and debate that was given to the Intelligence Identities Protection Act in both Houses, and I wish to commend the Congress for its overwhelming bipartisan support for the Bill. I would like to take this opportunity to express my appreciation to all of those who worked so diligently on this legislation. The effort to protect intelligence identities began several years ago, with the initiatives of Senator Lloyd Bentsen and Representatives Bob Michel and Charles Bennett. In the 97th Congress, the Chairmen of the Senate and House Committees on Intelligence, Senator Barry Goldwater and Representative Edward Boland, worked diligently to secure passage of the legislation. Senators Thurmond, Denton, Jackson, and East were steadfast supporters of the Identities Bill, and Representatives Robinson, Mazzoli, McClory, Hyde, Solomon, Wright, and Young pressed the effort in the House. I especially want to state my deepest admiration for Senator John Chafee, whose outstanding leadership and determination played the key role in securing approval of the Bill in the Senate. I only wish that the late Representative John Ashbrook, who took the lead on the House floor, could be with us today to witness this signing; the Intelligence Identities Protection Act is a monument to him.

Enactment of the Intelligence Identities Protection Act is proof that this nation values and will continue to support the efforts of its intelligence agencies and their personnel. This achievement will allow us to focus our efforts on the next legislative goal in our program to revitalize the nation's intelligence capabilities: securing relief for the Intelligence Community from the wasteful and debilitating impact of the Freedom of Information Act.

Ninety-seventh Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-fifth day of January,
one thousand nine hundred and eighty-two*

An Act

To amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Identities Protection Act of 1982".

SEC. 2. (a) The National Security Act of 1947 is amended by adding at the end thereof the following new title:

"TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

"PROTECTION OF IDENTITIES OF CERTAIN UNITED STATES UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES

"SEC. 601. (a) Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than \$50,000 or imprisoned not more than ten years, or both.

"(b) Whoever, as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than \$25,000 or imprisoned not more than five years, or both.

"(c) Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined not more than \$15,000 or imprisoned not more than three years, or both.

"DEFENSES AND EXCEPTIONS

"SEC. 602. (a) It is a defense to a prosecution under section 601 that before the commission of the offense with which the defendant

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is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

"(b)(1) Subject to paragraph (2), no person other than a person committing an offense under section 601 shall be subject to prosecution under such section by virtue of section 2 or 4 of title 18, United States Code, or shall be subject to prosecution for conspiracy to commit an offense under such section.

"(2) Paragraph (1) shall not apply (A) in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, or (B) in the case of a person who has authorized access to classified information.

"(c) It shall not be an offense under section 601 to transmit information described in such section directly to the Select Committee on Intelligence of the Senate or to the Permanent Select Committee on Intelligence of the House of Representatives.

"(d) It shall not be an offense under section 601 for an individual to disclose information that solely identifies himself as a covert agent.

"REPORT

"SEC. 603. (a) The President, after receiving information from the Director of Central Intelligence, shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives an annual report on measures to protect the identities of covert agents, and on any other matter relevant to the protection of the identities of covert agents.

"(b) The report described in subsection (a) shall be exempt from any requirement for publication or disclosure. The first such report shall be submitted no later than February 1, 1983.

"EXTRATERRITORIAL JURISDICTION

"SEC. 604. There is jurisdiction over an offense under section 601 committed outside the United States if the individual committing the offense is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act).

"PROVIDING INFORMATION TO CONGRESS

"SEC. 605. Nothing in this title may be construed as authority to withhold information from the Congress or from a committee of either House of Congress.

"DEFINITIONS

"SEC. 606. For the purposes of this title:

"(1) The term 'classified information' means information or material designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive

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order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

"(2) The term 'authorized', when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

"(3) The term 'disclose' means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.

"(4) The term 'covert agent' means—

"(A) an officer or employee of an intelligence agency or a member of the Armed Forces assigned to duty with an intelligence agency—

"(i) whose identity as such an officer, employee, or member is classified information, and

"(ii) who is serving outside the United States or has within the last five years served outside the United States; or

"(B) a United States citizen whose intelligence relationship to the United States is classified information, and—

"(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

"(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation; or

"(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

"(5) The term 'intelligence agency' means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.

"(6) The term 'informant' means any individual who furnishes information to an intelligence agency in the course of a confidential relationship protecting the identity of such individual from public disclosure.

"(7) The terms 'officer' and 'employee' have the meanings given such terms by section 2104 and 2105, respectively, of title 5, United States Code.

"(8) The term 'Armed Forces' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

"(9) The term 'United States', when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

"(10) The term 'pattern of activities' requires a series of acts with a common purpose or objective."

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(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

"Sec. 601. Protection of identities of certain United States undercover intelligence officers, agents, informants, and sources.

"Sec. 602. Defenses and exceptions.

"Sec. 603. Report.

"Sec. 604. Extraterritorial jurisdiction.

"Sec. 605. Providing information to Congress.

"Sec. 606. Definitions."

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*